



Division of
Enforcement

U.S. COMMODITY FUTURES TRADING COMMISSION

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June 3, 2020

Filed on ECF

The Honorable Vernon S. Broderick
United States District Court
Southern District of New York
Thurgood Marshall United States Courthouse
40 Foley Square, Room 415
New York, NY 10007

APPLICATION GRANTED
SO ORDERED *Ver Bro*
VERNON S. BRODERICK
U.S.D.J. 6/4/2020

RE: U.S. Commodity Futures Trading Commission v. William Byrnes, et al., 13 Civ. 1174 (VSB)

Dear Judge Broderick:

We are counsel for Plaintiff U.S. Commodity Futures Trading Commission (the “Commission”) in the above-referenced matter. We write to advise the Court that the Commission’s Division of Enforcement (the “Division”) and Defendants William Byrnes, Christopher Curtin, and the New York Mercantile Exchange, Inc. (the “Settling Defendants”) have reached an agreement in principle that would resolve Plaintiff’s claims against them.¹ The proposed consent order would be submitted for Your Honor’s consideration upon receipt of Commission approval.

The Commission is an independent federal regulatory agency charged with the responsibility for administering and enforcing the provisions of the Commodity Exchange Act, as amended, 7 U.S.C. §§ 1 et seq., and the Regulations promulgated thereunder, 17 C.F.R. §§ 1 et seq. Although the Commission prosecutes actions through its Division of Enforcement, the Division itself does not possess independent settlement authority. Rather, the Division presents executed offers of settlement with its recommendation to the agency’s Commissioners for the Commission’s approval. *See, e.g.*, 17 C.F.R. § 10.108.

Accordingly, to avoid the unnecessary expenditure of resources and to give the Division time to present the proposed settlement to the Commission and obtain its approval, Plaintiff and Settling Defendants respectfully request that the Court stay the case and adjourn all pretrial deadlines and the trial date. Defendant Eibschutz joins in the request for a stay. The parties propose to submit a status report on or before July 31, 2020, advising the Court with respect to: (i) the status of the Commission’s review and approval of the proposed settlement with the Settling Defendants; and (ii) the status of any settlement discussions between Plaintiff and Defendant Eibschutz; and (iii) a proposed revised pre-trial schedule and request to set a trial date, as appropriate.

¹ The proposed settlement would substantially narrow the scope of the trial, but would not resolve the litigation in its entirety because it does not cover the aiding and abetting claim against Defendant Ron Eibschutz. The court previously granted Plaintiff’s motion for partial summary judgment as to Eibschutz’s liability for aiding and abetting the violations by Byrnes and Curtin, “to the extent that such violations are found at trial.” *CFTC v. Byrnes*, 2019 WL 4515209, at *12 (S.D.N.Y. Sept. 19, 2019).

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Respectfully submitted,

/s/ Patryk J. Chudy

Patryk J. Chudy

cc: All Counsel (by ECF)